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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/510,607	KENNEDY, BRIAN M.
	Examiner	Art Unit	
	Vivek D. Koppikar	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 June 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-42* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of Application

1.   This communication is in response to the amendment filed on June 18, 2007. Claims 11-

42 are pending.

Claim Objections

2.   Claims 11-26 are objected to because of the following informalities: In these claims it is

not clear where the preamble ends and the body of the claims begin. Appropriate correction

and/or clarification is required. For the purposes of examination, the Office will assume that the

body of the claim begins with the phrase "at least one seller model." Therefore, the amendments

to the Claims will be considered to be part of the preamble and will therefore not be given

patentable weight.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and
> distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 11-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

Claims 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being

incomplete for omitting essential elements, such omission amounting to a gap between the

elements. See MPEP § 2172.01. The omitted elements are: the components of the "system

operable to computer the amount." Applicant fails to particularly point out and distinctly claim

any of the system elements of claims 11 and 19.

Claims 12-18 and 20-26 incorporate the deficiencies of claims 11 and 19 through

dependency, and are therefore rejected for the same reasons, and incorporated herein.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or
composition of matter, or any new and useful improvement thereof, may obtain a patent
therefor, subject to the conditions and requirements of this title.

6.   Claims 11-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

(A) Claims 11 includes a system comprising at least two seller models and a system operable to

computer the amount of the product that is ATP at a seller.

Descriptive material can be characterized as either "functional descriptive material" or

"nonfunctional descriptive material." In this context, "functional descriptive material" consists of

data structures and computer programs which impart functionality when employed as a computer

component. "Nonfunctional descriptive material" includes but is not limited to music, literary

works, and a compilation or mere arrangement of data. Both types of "descriptive material" are

nonstatutory when claimed as descriptive material *per se*, *In re Warmerdam*, 33 F.3d 1354, 1360,

31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

Computer programs claimed as computer listings per se, i.e., the descriptions or

expressions of the programs, are not physical "things." They are neither computer

components nor statutory processes, as they are not "acts" being performed. Such

claimed computer programs do not define any structural and functional interrelationships

between the computer program and other claimed elements of a computer which permit the

computer program's functionality to be realized.

Nonfunctional descriptive material that does not constitute a statutory process, machine,

manufacture, or composition of matter and should be rejected under 35 U.S.C. 101. Certain types

of descriptive material, such as music, literature, art, photographs, and mere arrangements or

compilations of facts or data, without any functional interrelationship is not a process, machine,

manufacture, or composition of matter.

In this case, claims 11 and 19 are either directed towards software per se (i.e., functional

descriptive material per se) or a mere arrangement of data (nonfunctional descriptive material per

se). Based on Applicant's originally filed specification, the models and system described in

claim 1 appear to be either software (page 5, line 24) or data (Figures 1-2), and thus claim 11 is

directed towards non-statutory subject matter.

Similar analysis applies to claims 12-26, and therefore claims 12-26 are rejected for the

same reasons as claim 11.

Claim 27 recites the steps of accessing at least two seller models..., and computing the

amount of the product that is ATP at a seller.... The claimed invention as a whole must

accomplish a practical application. That is, it must produce a "useful, concrete and tangible

result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368, 73

(Fed. Cir. 1998). The purpose of this requirement is to limit patent protection to inventions that

possess a certain level of "real world" value, as opposed to subject matter that represents nothing

more than an idea or concept, or is simply a starting point for future investigation or research

((Brenner v. Manson, 383 U.S. 519, 528-36 (1966); In re Ziegler, 992 F.2d 1197, 1200-03 (Fed.

Cir. 1993)). Accordingly, a complete disclosure should contain some indication of the practical

application for the claimed invention, i.e., why the applicant believes the claimed invention is

useful.

In this case, claim 1 recites the steps of Claim 27 recites the steps of accessing at least

two seller models..., and computing the amount of the product that is ATP at a seller....

However, claim 27 does not accomplish a practical application or provide "real world" value.

The claim does not recite any steps beyond computing an amount of a product. It is unclear what

is done with the amount once it is computed (i.e., is it used to manage ATP products?). Similar

analysis can be applied to claims 28, 30, 31, 33, 34, 35, 36, 37, 39, 41, and 42. As such, these

claims are rejected for the same reasons as claim 27.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

8.   Claims 11-16, 18, 27-32, and 34 are rejected under 35 U.S.C. 103(a) as being

unpatentable over James et al., EP 425,405 A2 (hereinafter James) in view of Lee at al., Pat. No.

5,712,985 (hereinafter Lee) and Rhodes, Dusty, "The keys to the enterprise: integrated

applications drive information systems to new horizons - enterprise wide integration"(hereinafter

Rhodes).

(A) As to claim 11, James discloses a system for managing data associated with available-to-

promise (ATP) products (processes that take place in a typical manufacturing environment from

the time the orders are received and the logic to arrive at the capability to promise and confirm

planned shipping dates based on capacity constraints and product availability)(page 5, col. 2,

lines 32-49), comprising:

(a) planned supply of the product (i.e. planned orders to cover net requirements)(page 4, col. 1,

lines 16-22 and page 7, col. 1, lines 47-51); and

(b) customer orders for the product through the seller (i.e. customer order servicing)(page 5, col.

2, lines 32-43).

James does not explicitly disclose two seller models that each represent a seller for one or

more products each product being associated with a product forecast model; and forecasted sales

of the product through the seller.

However, Lee discloses each product being associated with a product forecast model (i.e.

model covers each of a plurality of products)(col. 2, lines 1-9 and col. 5, lines 46-63); and

forecasted sales of the product through the seller (i.e. forecast profile)(col. 3, lines 41-53).

Finally, Lee discloses at least two seller models that each represent a seller for one or more

products (i.e. the model should cover each of a plurality of products or business items to

determine future business demand for a specific location)(col. 2, lines 1-9).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include the teachings of Lee within the James system in order to provide products in

timely response to customer demands (col. 1, lines 37-43).

James does not explicitly disclose pre-allocated supply of the product to the seller and the

system operable to compute the amount of the product that is ATP at the seller according to the

planned supply, the customer orders, the pre-allocated supply and the amount of the product that

is ATP at one or more other sellers at a higher level in a seller hierarchy.

However, Rhodes discloses pre-allocated supply of the product to the seller (i.e plan sales

expectations)(pages 1 and 2) and the system operable to compute the amount of the product that

is ATP at the seller according to the planned supply, the customer orders, the pre-allocated

supply and the amount of the product that is ATP at one or more other sellers (i.e. linking sales

and marketing strategies to material and resource scheduling ...)(page 3). As per the recitation of

"the pre-allocation of the supply of the product to the seller occurring prior to distribution of the

pre-allocated supply of the product to the seller," the Examiner respectfully submits that Rhodes

discloses an order department being able to "look" into the manufacturing system to determine

what is currently in production to give a viable ATP date (page 2). It is noted that a product

must be allocated to a seller before it is distributed to the seller. For example, a customer placing

an order for a product and being told when it will be delivered has "allocated" the product for

himself (See also Applicant's Background of the Invention, page 2, lines 15-26). The product is

then delivered to the customer ("distributed") after an order has been placed (See also

Applicant's Background of the Invention, page 2, lines 15-26). As per the recitation of "at a

higher level in a seller hierarchy," Rhodes discloses allowing business information systems to

communicate with different trading partnerships, where the system encompass the flow of

physical goods (and information) form the supplying organizations into the businesses and

subsequently to its customers (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include the features as disclosed by Rhodes within the James and Lee combination

for the motivation of allowing access to relevant data, facilitating fast decision making and

providing material and resource management information to sales and marketing teams (page 1).

(B) As to claim 12, James does not explicitly disclose the system of Claim 11, further operable

to adjust the pre-allocated supply according to one or more business criteria selected from the

group consisting of seller criteria, product criteria, forecast criteria, supply criteria, customer

order criteria, and policy criteria.

However, Rhodes discloses the system of Claim 11, further operable to adjust the pre-

allocated supply according to one or more business criteria selected from the group consisting of

seller criteria, product criteria, forecast criteria, supply criteria, customer order criteria, and

policy criteria (i.e. forecasting and DRP)(page 3). It would have been obvious to one of ordinary

skill in the art at the time of Applicant's invention to include the system of Claim 11, further

operable to adjust the pre-allocated supply according to one or more business criteria selected

from the group consisting of seller criteria, product criteria, forecast criteria, supply criteria,

customer order criteria, and policy criteria as disclosed by Rhodes within the James and Lee

combination for the motivation of allowing access to relevant data, facilitating fast decision

making and providing material and resource management information to sales and marketing

teams (page 1).

(C) As to claim 13, James, and Lee do not explicitly disclose the system of Claim 11, further

operable to:

communicate forecast models to a remote system; receive from the remote system a promise

computed at the remote system for a customer order requesting a quantity of a product through

the seller, the promise being computed according to the allocated supply;

receive from the remote system adjusted forecast models reflecting the promise; and recompute

the amount of the product that is ATP at the seller.

However, James discloses receiving a promise for a customer order requesting a quantity

of a product through the seller, the promise being computed according to the allocated supply

(see abstract, page 5, col. 1, lines 33-59 and page 6, col. 1, lines 18-30). James further discloses

receiving a promise for a customer order requesting a quantity of a product through the seller, the

promise being computed according to the allocated supply re-computing the amount of the

product that is ATP at the seller (page 3, col. 2, line 48 - page 4, col. 1, line 1). In addition, Lee

discloses receiving adjusted forecast models reflecting the promise (i.e. variation between actual

demand and the forecasted demand is used to update base and influence profiles and the

forecasted demand is re-determined)(see abstract and col. 15 and col. 21, line 18 - col. 22, line

12).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include receiving adjusted forecast models reflecting the promise as disclosed by

Lee within the James system in order to provide products in timely response to customer

demands (col. 1, lines 37-43).

Although James and Lee do not explicitly disclose remotely located systems, Rhodes discloses enterprise wide integration of sales, marketing, material and resource systems (i.e. SOP)(see abstract). Rhodes further discloses that forecast information is communicated to a remote system (i.e. forecasting is used to drive the master production schedule) (page 3, lines 11-25). The remote system transmits a promise reflecting a customer order requesting a quantity of a product through the seller, the promise being computed according to the allocated supply (i.e. MPS linked with order management such that when a customer places an order.., to determine what's currently in production to give viable available to promise dates)(page 3, lines 12-25).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include performing the steps of claim 13 in remotely located systems within the James and Lee combination for the motivation of achieving business goals such as improved customer service, increased productivity and greater profitability (page 1, lines 43-45 and page 2, lines 14-25).

James and Lee do not explicitly disclose computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product.

However, Rhodes discloses computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include computing a promise for the customer order, the promise being computed according to the pre-allocated supply of the product as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision

making and providing material and resource management information to sales and marketing

teams (page 1).

(D) As to claim 14, James does not explicitly disclose the system of Claim 13, wherein: all

forecast models for one or more sellers are communicated to the remote system;

the system receives from the remote system a promise also computed according to the amount of

product that is ATP at one or more other sellers; and adjust the amount of the product that is

ATP at one or more other sellers if the promise exceeds the allocated supply for the seller.

However, James discloses receiving a promise for a customer order computed according

to the amount of product that is ATP at one or more other sellers (see abstract, page 5, col. 1,

lines 33-59 and page 6, col. 1, lines 18-30). James further discloses adjusting the amount that is

ATP at one or more other sellers if the promise exceeds the allocated supply for the seller (page

3, col. 2, line 48 - page 4, col. 1, line 1). In addition, Lee discloses receiving forecast models for

one or more sellers (see abstract and col. 6, lines 35-60).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include receiving forecast models for one or more sellers within the James system in

order to provide products in timely response to

customer demands (col. 1, lines 37-43).

Although James and Lee do not explicitly disclose remotely located systems, Rhodes

discloses enterprise wide integration of sales, marketing, material and resource systems (i.e.

SOP)(see abstract). Rhodes further discloses that forecast information is communicated to a

remote system (i.e. forecasting is used to drive the master production schedule) (page 3, lines 11-

25). The remote system transmits a promise reflecting a customer order requesting a quantity of a

product through the seller, the promise being computed according to the allocated supply (i.e.

MPS linked with order management such that when a customer places an order.., to determine

what's currently in production to give viable available to promise dates)(page 3, lines 12-25).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include performing the steps of claim 13 in remotely located systems within the

James and Lee combination in order to achieve business goals such as improved customer

service, increased productivity and greater profitability (page 1, lines 43-45 and page 2, lines 14-

25).

James and Lee do not explicitly disclose adjusting the amount that is ATP at one or more

sellers if the promise exceeds the pre-allocated supply of the product to the seller.

However, Rhodes discloses adjusting the amount that is ATP at one or more sellers if the

promise exceeds the pre-allocated supply of the product to the seller (page 3). It would have been

obvious to one of ordinary skill in the art at the time of Applicant's invention to include adjusting

the amount that is ATP at one or more sellers if the promise exceeds the pre-allocated supply of

the product to the seller as disclosed by Rhodes within the James and Lee combination for the

motivation of allowing access to relevant data, facilitating fast decision making and providing

material and resource management information to sales and marketing teams (page 1).

(E) As to claim 15, James does not explicitly disclose the system of Claim 11, wherein the

forecast model further represents a quantity of the product the seller has committed to selling, the

system operable to adjust the pre-allocated supply of the product for the seller according to the

committed quantity.

However, Rhodes discloses the system of Claim 11, wherein the forecast model further represents a quantity of the product the seller has committed to selling, the system operable to adjust the pre-allocated supply of the product for the seller according to the committed quantity (i.e. link sales and marketing strategies to material and resource scheduling)(page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system of Claim 11, wherein the forecast model further represents a quantity of the product the seller has committed to selling, the system operable to adjust the pre-allocated supply of the product for the seller according to the committed quantity as disclosed by Rhodes within the James and Lee combination for the motivation of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

(F) As to claim 16, James discloses the system of Claim 11, further operable to:

accept a customer order requesting a quantity of a product through the seller (page 6, col. 1, lines 38-50). James does not explicitly disclose compute a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted according to the pre-allocated supply of the product.

However, Rhodes discloses computing a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted according to the pre-allocated supply of the product (page 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include computing a promise for the customer order according to the planned supply and one or more existing customer orders, the promise restricted

according to the pre-allocated supply of the product as disclosed by Rhodes within the James and

Lee combination for the motivation allowing access to relevant data, facilitating fast decision

making and providing material and resource management information to sales and marketing

teams (page 1).

(G) As to claim 18, James discloses the system of Claim 11, further operable to adjust either the

forecasted sales or the pre-allocated supply for a product for the seller according to an arrival rate

of customer orders for the product through the seller (page 5, col. 1, line 33 - col. 2, line 18 and

page 6, col. 1, lines 38-50).

(H) As to claim 27, the claim is the corresponding method claim to system claim 11 and is

rejected on the same basis as claim 11.

(I) As to claims 28-32, and 34, the claims are similar in scope to claims 12-16, and 18 and are

rejected on the same basis.

9.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over James, Lee and

Rhodes as applied to claim 11 above, and further in view of Frank O. Smith, "Dun & Bradstreet

Software Delivers Sales and Promotion System to Manufacturers" (hereinafter Smith).

(A) As to claim 17, James does not explicitly disclose the system of Claim 11, wherein:

each forecast model is extensible such that one or more policy rules may be associated with the

corresponding product; each policy rule comprises a restriction on either the forecasted sales or

the pre-allocated supply of the product for the seller; and

either the forecasted sales or the pre-allocated supply of the product is computed according to the

policy rules.

However, Smith discloses each forecast model is extensible such that one or more policy

rules may be associated with the corresponding product (i.e. SPS allows manufacturers to create

and manage special product promotions based on product categories or items)(page 1, lines 21-

30). Smith further discloses each policy rule comprises a restriction on either the forecasted sales

or the allocated supply for the seller (i.e. price and discount effectivity dating)(page 2, lines 1-5).

Finally, Smith discloses either the forecasted sales or the allocated supply is computed according

to the policy rules (i.e. The system takes into account impact of scheduling the requested

customer orders with orders already in progress.(page 4, col. 2, lines 35-47, page 5, col. 1, lines

37-40 and page 6, col. 2, lines).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include the features of Smith within the James, Lee and Rhodes combination for the

motivation of speed and ease of online management of orders tied to special promotions (page 1,

lines 32-34).

10.   Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over James, Lee, and

Rhodes as applied to claim 27 above, and further in view of Smith.

(A) As to claim 33, the claim is similar in scope to claim 17 and is rejected on the same basis.

11.   Claims 19-26, 35-37, and 39-42 are rejected under 35 U.S.C. 103(a) as being

unpatentable over James in view of Lee, Rhodes and Smith.

(A) As to claim 19, James discloses a system for managing data associated with available-to-

promise (ATP) products (i.e. processes that take place in a typical manufacturing environment

from the time the orders are received and the logic to arrive at the capability to promise and

confirm planned shipping dates based on capacity constraints and product availability)(page 5,

col. 2, lines 32-49), comprising:

planned supply of the product (i.e. planned orders to cover net requirements)(page 4, col. 1, lines

16-22 and page 7, col. 1, lines 47-51);

customer orders for the product through the seller (i.e. customer order servicing)(page 5, col. 2,

lines 32-43); and

allocated supply of the product to the seller (i.e. The system takes into account impact of

scheduling the requested customer orders with orders already in progress. Check if there is

unallocated inventory. If the system checks to see if there is unallocated inventory, then some of

the inventory is allocated.)(page 4, col. 2, lines 35-47, page 5, col. 1, lines 37-40 and page 6, col.

2, lines 3-16); and

wherein the system is operable to compute the amount of the product that is ATP at the seller

according to the planned supply, the customer orders, the allocated supply, and the amount of the

product that is ATP at one or more other sellers (i.e. planned production activity performed by

CRP system, customer orders, allocated supply)(page 4, col. 2, lines 48-59, page 5, col. 1, line 33 - col. 2, line 18, and page 7, col. 1, lines 47-51).

James does not explicitly disclose each product being associated with a product forecast model and forecasted sales of the product through the seller. However, Lee discloses each product being associated with a product forecast model (i.e. model covers each of a plurality of products) (col. 2, lines 1-9 and col. 5, lines 46-63); and forecasted sales of the product through the seller (i.e. forecast profile)(col. 3, lines 41-53).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include each product being associated with a product forecast model and forecasted sales of the product through the seller within the James system in order to provide products in timely response to customer demands (col. 1, lines 37-43).

James and Lee do not explicitly disclose pre-allocated supply of the product to the seller, the pre-allocated supply being a supply for the product that has been pre-allocated to the seller for promising to subsequent customer orders for the product through the seller, the pre-allocation of the supply of the product to the seller occurring prior to distribution of the pre-allocated supply of the product to the seller, and the system is operable to compute the product that is ATP at a seller according to the planned supply, the customer orders, the pre-allocated supply and the amount that is ATP at one or more of the sellers at a higher level in a seller hierarchy.

However, Rhodes discloses pre-allocated supply of the product to the seller (i.e plan sales expectations)(pages 1 and 2) and the system is operable to compute the amount of the product that is ATP at a seller according to the planned supply, the customer orders, the allocated supply and the amount of the product that is ATP at one or more other sellers (page 3). As per the

recitation of "the pre-allocation of the supply of the product to the seller occurring prior to distribution of the pre-allocated supply of the product to the seller," the Examiner respectfully submits that Rhodes discloses an order department being able to "look" into the manufacturing system to determine what is currently in production to give a viable ATP date (page 2). It is noted that a product must be allocated to a seller before it is distributed to the seller. For example, a customer placing an order for a product and being told when it will be delivered has "allocated" the product for himself (See also Applicant's Background of the Invention, page 2, lines 15-26). The product is then delivered to the customer ("distributed") after an order has been placed (See also Applicant's Background of the Invention, page 2, lines 15-26). As per the recitation of "at a higher level in a seller hierarchy," Rhodes discloses allowing business information systems to communicate with different trading partnerships, where the system encompass the flow of physical goods (and information) form the supplying organizations into the businesses and subsequently to its customers (page 3).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include pre-allocated supply of the product to the seller, the pre-allocated supply being a supply for the product that has been pre-allocated to the seller for promising to subsequent customer orders for the product through the seller and the system is operable to compute the product that is ATP at a seller according to the planned supply, the customer orders, the pre-allocated supply and the amount that is ATP at one or more of the sellers as disclosed by Rhodes within the James and Lee combination for the motivation of ease of allowing access to relevant data, facilitating fast decision making and providing material and resource management information to sales and marketing teams (page 1).

James, Lee and Rhodes do not explicitly disclose at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different restriction.

However, Smith discloses at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different restriction (i.e. SPS enables manufacturers to easily track and manage special sales promotions separate and independent of standard company pricing policy. SPS enables manufacturers to create and manage special product promotions based on ... by customer type or specific customer account.)(page 1, lines 21-30).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one seller model representing a seller for products that each correspond to an item having one or more restrictions on its sale, at least two products corresponding to the same item but with at least one different restriction within the James, Lee and Rhodes system in order to speed and ease online management of orders tied to special promotions (page 1, lines 32-34).

(B) As to claim 20, James discloses he system of Claim 19, wherein the restrictions are selected from the group consisting of quantity restrictions, and lead time restrictions (i.e. whether customer specified date can be met. Check if requirements can be satisfied by unallocated inventory or unallocated scheduled production.)(page 5, col. 1, line 33 - col. 2, line 18).

James does not explicitly disclose wherein the restrictions are selected from price

restrictions. However, Smith discloses wherein the restrictions are selected from price

restrictions (i.e. ,manage special sales promotions separate and independent of standard company

pricing policy). It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to include wherein the restrictions are selected from price restrictions

within the James, Lee and Rhodes system in order to speed and ease online management of

orders tied to special promotions (page 1, lines 32-34).

(C) As to claim 21, the claim is similar in scope to claim 12 and is rejected on the same basis.

(D) As to claim 22, the claim is similar in scope to claim 13 and is rejected on the same basis.

(E) As to claim 23.the claim is similar in scope to claim 15 and is rejected on the same basis.

(F) As to claim 24, James and do not explicitly disclose the system of Claim 19, further operable

to:

computing a promise for the customer according to the pre-allocated supply for corresponding

products.

However, Rhodes discloses computing a promise for the customer order, the promise

being computed according to the pre-allocated supply of the product(page 2, lines 8-15 and lines

28-33). It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include computing a promise for the customer according to the pre-allocated supply

for corresponding products as disclosed by Rhodes within the James and Lee combination for the

motivation of allowing access to relevant data, facilitating fast decision making and providing

material and resource management information to sales and marketing teams (page 1).

James, Lee and Rhodes do not explicitly disclose accept a customer order requesting

quantities of one or more items through the seller; and compute a promise for the customer order

according to the allocated supply for corresponding products, wherein the promise comprises a

plurality of options each with one or more of the restrictions specified for these products.

However Smith discloses accepting a customer order requesting quantities of one or more

items through the seller and computing a promise for the customer order according to the

allocated supply for corresponding products, wherein the promise comprises a plurality of

options each with one or more of the restrictions specified for these products (i.e. SPS enables

manufacturers to easily track and manage special sales promotions separate and independent of

standard company pricing policy. System enhancements include on line available to promise by

item ...)(page 1, lines 21-30 and page 2, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to include accepting a customer order requesting quantities of one or more items

through the seller and computing a promise for the customer order according to the allocated

supply for corresponding products, wherein the promise comprises a plurality of options each

with one or more of the restrictions specified for these products within the James, Lee and

Rhodes system in order to speed and ease online management of orders tied to special

promotions (page 1, lines 32-34).

(G) As to claim 25, the claim is similar in scope to claim 17 and is rejected on the same basis.

(H) As to claim 26, the claim is similar in scope to claim 18 and is rejected on the same basis

(I) As to claim 35, the claim is the corresponding method claim to system claim 19 and is

rejected on the same basis as claim 19.

(J) As to claims 36-42, the claims are similar in scope to claims 20-26 and are rejected on the

same basis.

Response to Arguments

12.   Applicant's arguments filed on June 18, 2007 have been fully considered but they are not

persuasive.

(1)   Applicants argue that the amendment to their claims have overcome the 35 U.S.C. 112

issues. However, these amendments are in the preamble and not in the body of the claims and

have therefore not given patentable weight. Therefore the 35 USC 112 rejections still stand for

the reasons set forth above.

(2)   Applicants traverse the 35 U.S.C. 101 rejections set forth in the previous Office Action.

As per claims 11 and 19, these claims as written appear to be directed towards software

based on Applicant's originally filed specification (page 5, line 24) or data (Figures 1-2), and

thus claims 11 and 19 are directed towards non-statutory subject matter.

Claim 27 does not accomplish a practical application or provide "real world" value. The applicants argument against this rejection does not set forth a reason as to why the claims, as currently written, provide a "real world" value. The Office recommends amending the claims as suggested, above, in the 35 U.S.C. 101 rejection of Claim 27, in order to overcome this rejection.

(3)   With regard to the 35 U.S.C. 103 rejections, the applicants argue that Lee does not teach "at least two seller models that each represent a seller for one or more products" wherein each product is associated with a "product forecast model". However, Lee clearly discloses two seller models (Lee: Col. 2, Ln. 1-9). Lee contemplates that a model can cover a plurality of business items and the Office, therefore, takes the position that this means that the model disclosed in Lee can be applied to many different business items wherein each item is covered by a model. Therefore, since Lee disclose a plurality of items that can be covered by its model it inherently discloses a plurality (including two) seller models.

(4)   Applicants argue that the Rhodes reference does not teach the step of "computing the amount of product" and state that the feature of "better satisfying the current planned level of sales" does not equate to "computing the amount of product." The Office disagrees with this contention. The system of Rhodes enables a user to satisfy the current level of sales, therefore, in order to satisfy a level of sales the system of Rhodes must necessarily "compute the amount of product" otherwise how would Rhodes inform a user on how to "satisfy the current planned level of sales."

(5)   In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392,

170 USPQ 209 (CCPA 1971).

(6)   Applicants argue that the prior art must disclose each and every element of the claimed

invention and that any motivation to combine or modify the prior art must be based upon a

suggestion in the prior art. Applicants argue that the prior art used in the 35 U.S.C. 103

rejections do not teach each and every limitation and also that there is no motivation for

combining these references. However, the Office would like to note that the prior art does in fact

teach each and every element of the claimed invention. The motivation to combine or modify

the prior art is also taken from the prior art, as cited above in the 35 U.S.C. 103 rejections.

Conclusion

13.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquire concerning this communication or earlier communications from the examiner should

be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can

normally be reached from Monday to Friday between 8 AM and 4:30 PM.

14.   If any attempt to reach the examiner by telephone is unsuccessful, the examiner's

supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for

this group are either (571) 273-8300 or (703) 872-9326 (for official communications including

After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information

Retrieval (PAIR). Information regarding the status of an application can be obtained from the

(PAIR) system. Status information for published applications may be obtained from either

Private PAIR or Public PAX. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel

free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

Vivek Koppikar

7/23/2007

C. LUKE GILLIGAN
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600